

Message Text

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PAGE 01 QUITO 03697 021555Z
ACTION ARA-14

INFO OCT-01 ISO-00 EB-08 COME-00 L-03 SSO-00 TRSE-00
CTME-00 /026 W
-----051995 021612Z /43
O R 021502Z MAY 78
FM AMEMBASSY QUITO
TO SECSTATE WASHDC IMMEDIATE 8392
INFO AMCONSUL GUAYAQUIL

UNCLAS QUITO 3697

PASS ARA/AND/E - J.A. ALLITTO

E.O. 11652: N/A
TAGS: BDIS, EC
SUBJECT: BUSINESS DISPUTE BETWEEN DINE AND PV INTERNATIONAL

REF: STATE 128364

1. THE CHARGE, COMATT AND E/C OFFICER GRAHAM MET WITH JERRY FORSYTHE ON MAY 23. FORSYTHE THANKED THE E/C SECTION FOR REPRESENTATIONS OVER THE PAST MONTHS WITH DINE (DIRECTORATE OF ARMY INDUSTRIES) ON BEHALF OF PV INTERNATIONAL.

2. FORSYTHE SAID THAT DINE DIRECTOR COL. SUAREZ HAD APPARENTLY COME TO THE CONCLUSION THAT THE EXPLOSIVES PLANT AS PROPOSED BY PV WAS TOO LARGE IN SCOPE, AND PERHAPS TOO SOPHISTICATED, FOR THE ECUADOREAN MARKET. SUAREZ WAS INTERESTED IN A SCALED-DOWN VERSION THAT FORSYTHE SAID WAS UNECONOMIC FOR PV. THUS, ACCORDING TO FORSYTHE, NEGOTIATIONS WITH DINE WOULD PROBABLY REVOLVE AROUND HOW TO DISSOLVE THE EXISTING CONTRACT.

3. FORSYTHE ASKED OUR OPINION ON THE CHANCES OF SUCCESS SHOULD HE FILE A LAW SUIT AGAINST DINE. WE
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REPLIED THAT WE COULD NOT BE TOTALLY ENCOURAGING ON THAT SCORE, BUT THAT HE SHOULD EXPLORE THE MATTER WITH A LAWYER ON THE POST'S LIST OF ATTORNEYS (WHICH WE SUPPLIED TO HIM). WE EXPLAINED THAT WE COULD NOT TAKE AN ACTIVE ROLE IN THE DISPUTE UNTIL PV HAD EXHAUSTED ALL AVAILABLE LEGAL REMEDIES.

4. WE LEARNED SUBSEQUENTLY THAT FORSYTHE DID TALK TO AT LEAST ONE LAWYER, BUT HAD APPARENTLY NOT YET DECIDED WHETHER TO INITIATE LEGAL ACTION. HE WAS ALSO THINKING OF A "PUBLICITY CAMPAIGN" AGAINST DINE. IN THE MEANTIME FORSYTHE HAS COME TO CONSIDER HIS CURRENT LAWYER, CAMILO GALLEGOS, A LIABILITY IN THAT GALLEGOS IS A VERY CLOSE FRIEND OF DINE DIRECTOR SUAREZ.

5. WE BELIEVE THAT THE ALLEGED ARREST THREAT WAS VASTLY EXAGGERATED. WE UNDERSTAND IT CAME IN THE FORM OF A STATEMENT TO FORSYTHE FROM A DINE ECONOMIST TO THE EFFECT THAT THE DINE DIRECTOR WAS SO ANGRY AT FORSYTHE THAT HE'D LIKE TO HAVE HIM PUT IN JAIL; AND THAT THIS REMARK WAS PRECEDED BY THE --VERY SUSPECT-- ADVICE FROM GALLEGOS THAT FORSYTHE LEAVE ECUADOR AT ONCE. WE DO NOT SEE THAT THERE IS ANYTHING TO PREVENT FORSYTHE FROM RETURNING TO ECUADOR TO PURSUE LEGAL ACTION AGAINST DINE, AND OF COURSE WE WOULD INTERVENE VIGOROUSLY ON FORSYTHE'S BEHALF IN THE VERY UNLIKELY EVENT AN ATTEMPT WERE MADE TO JAIL HIM.

6. SHOULD FORSYTHE DECIDE TO DO THIS, THE EMBASSY ALSO STANDS READY TO BE OF APPROPRIATE ASSISTANCE DURING AND AFTER SUCH PROCEEDINGS.

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7. WE DO NOT CONSIDER THIS DISPUTE TO BE UNUSUAL OR PARTICULARLY ALARMING. SITUATIONS OF THIS SORT ARISE FREQUENTLY WHEN FOREIGN COMPANIES NEGOTIATE WITH GOE AGENCIES THAT DO NOT HAVE EQUAL TECHNICAL EXPERTISE AND SAVVYM. VIRTUALLY ALL SUCH DISPUTES IN ECUADOR EVENTUALLY ARE RESOLVED, ONE WAY OR THE OTHER, WITHOUT SERIOUS ADVERSE CONSEQUENCES FOR THE FOREIGN INVESTORS. THE UPCOMING CHANGE OF GOVERNMENT IS A COMPLICATING FACTOR; A GOE OFFICIAL WOULD BE VERY RELUCTANT TO CONCLUDE NOW ANY AGREEMENT WITH A PRIVATE FIRM THAT COULD BE A FUTURE SOURCE OF EMBARRASSMENT, WHICH DINE EVIDENTLY NOW FEELS COULD BE THE CASE IF IT GOES THROUGH WITH ITS PV VENTURE AS ORIGINALLY INTENDED. DINE'S RECORD OF TREATMENT OF FOREIGN INVESTORS IS GENERALLY ENCOURAGING.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 02 may 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978QUITO03697
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780231-0538
Format: TEL
From: QUITO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197805102/aaaadiza.tel
Line Count: 110
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 0c32d593-c288-dd11-92da-001cc4696bcc
Office: ACTION ARA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 78 STATE 128364
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 29 mar 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2517926
Secure: OPEN
Status: NATIVE
Subject: BUSINESS DISPUTE BETWEEN DINE AND PV INTERNATIONAL
TAGS: BDIS, EC
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/0c32d593-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014